

# ANALYSING THE PRINCIPLES OF GOOD FAMILY GOVERNANCE FROM THE ISLAMIC LAW PERSPECTIVE

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## ABSTRACT

*Family problem is overwhelming. Data on divorce, alcoholic, drug addiction, abusive or abused parents is arising. Could governance be the answer? For the family institution, good governance is important in ensuring the stability of the family. However, despite all the family problems that occur, no serious action has been appropriated in terms of governance in sustaining the family institution. Therefore, this article aims to analyse the principles of family governance from the Islamic perspective. Qualitative method is used in this writing in which a plethora of references derived from Quranic verses, Prophet's tradition and his companions' stories, books, journal articles and websites are referred. In maintaining its relationship with Islamic jurisprudence, this research draws insights from the earlier works of classical Muslim jurists who have provided information related to the area of discussion. The finding provides significant principles of the family governance primarily based on the holy Quran and the Prophet's tradition, among others are khilafah, amanah, taklif and ihtisab. This finding shows that Islamic family governance has strong basis in ensuring its stability as it is guided by God's revelation and Prophet's practices. Thus, it shows the seriousness of Islam in maintaining the stability of the family.*

**Keywords:** Good Governance, Family, Islamic Law.

## INTRODUCTION

Good governance implies good order and good policies (Andrew, 2010). The issue of governance is a crucial concept and an important emerging issue in the 21<sup>st</sup> century pre-occupying the international community. It is considered an essential element for peace and development of societies (Kulshreshtha, 2008). Governance as a concept has been a catchword in many corners of disciplines such as public administration, political science, international relation, finance and economics. However, there are variety of definitions, different organization have different interpretations and perspective (Yu, 2018; Gjalt & Hanneke, 2016). Basically, it can be said that there is a need for such a concept since it is a crucial element for peace and development of societies.

The issue here is, governance of family is often ignored. Despite the family breakdown and various marriage problems which are now engulfing families all over the world, no serious action has been appropriated in terms of governance in sustaining the family institution. Therefore, the researcher opines that since the family institution is crucial for the growth and continuity of human civilisation, any notion of good governance must embrace the family institution as a priority. Family stability should be maintained and developed because a stable family would lead to a successful nation. This position posits that the family institution determines the future of society. There is no substitute for the role of family in the building of lives and communities.

The question is why of governance in the family? It is of grave importance that governance of the family institution needs to be addressed. If governance is concerned with the management of human affairs, then the family institution must be governed and managed with equal treatment. This is because the family institution has its unique purpose and direction in the creation of human civilisation. Unfortunately, the far majority of literature uses the term “*family governance*” in family business and private wealth management (Isabelle & Miller, 2018; Stephen & Joan, 2010). Therefore, the researchers opine that instead of wealth or family business, the family itself should be governed first. This is to ensure that as the basic unit of society, the family is protected and its stability preserved.

The most relevant writings on this topic are the articles written by Zaleha, (2010), who addressed contemporary challenges confronting the family institution and proposed family governance as a framework for social transformation. Zaleha argues that good family governance is a must so as to ensure that the family institution is protected from destruction. In another research, she highlighted the question of privacy in family life and justification for State intervention. According to her, in governing the family, the State has to ensure the reasonable balance between the autonomy of the family and the intervention of the State (Zaleha, 2010). She suggested in developing a model of family governance appropriate for contemporary families, a reliance on the Qur’anic-based theories hold a number of advantages (Zaleha, 2010).

Another related research is written by Normi (2011) in which she stressed on the importance of protecting the family institution from any element that may weaken it. Normi examined the roles of the parties to the marriage, family members and the authorities in ensuring the sustainability of the marriage institution. In other articles, she pointed out a good question as to how far the existing laws in Malaysia can act as a tool or mechanism in sustaining family institution and whether the current laws are adequate to meet the new challenges in the society.

As far as Islamic family law are concerned, it has provided comprehensive rules and guidance in regulating family in order to preserve both the institutions of marriage and family (Fadhilah et al., 2018; Ahmad, 2018). In addition, these Islamic laws answer to detailed principles of maqasid Shariah (objectives of Shariah concerning the family institution (Mohammad, 2008). Thus, to implement those rules and guidance and to realise the maqasid, Muslims are entrusted with the responsibility to establish a good governance system in accordance with the guidelines of Shariah.

Family governance needs also be established as a mechanism for current challenges relating to marriage and other social transformation. Good governance is therefore indispensable with regard to the recent transformations in marriage and family problems such as the increasing rate of divorce cases, cohabitation without marriage, same-sex marriages, family dysfunctions and domestic violence in most of the societies (Jennifer, 2016; Rebick & Ayuni, 2006). In view

of the importance of governance in family institution, this article aims to analyse the principles of family governance from the Islamic perspective.

## RESEARCH METHODOLOGY

The aims of this research is to analyse the principles of family governance from the Islamic law perspective. To achieve such objective, this study adopts a qualitative method using descriptive and explanatory approaches. It employs content analysis to review systematically the fact derived mainly from the holy Quran and prophet traditions (Sunnah). Relevant literatures from the existing texts and previous studies are extensively reviewed to analyse the principles of family governance. Articles and writings in journals, books, research papers, reports, dissertations etc are scrutinised. Findings of the study shows some significant principles of family governance propagated in Islam i.e., khilafah (vicegerency), amanah (transparency), taklif (responsibility) and ihtisab (accountability).

## RESULT AND DISCUSSION

Compared to the loose practices of marriage in pre-Islamic Arabia and the modern era, marriage in Islam is systematized by having a set of rules, laws and moral principles available in various sources, mainly in the Qur'ān and Sunnah. The introduction of the concept of marriage in Islam is to restructure the culture of pre-Islamic Arabia particularly through marriage. The following discussion highlights reforms to the institution of marriage introduced by Islam in terms of governance. It focuses on the principles of family governance which are simplified in the following table (Table 1).

<b>Table 1</b> <b>PRINCIPLES OF FAMILY GOVERNANCE</b>		
<b>No</b>	<b>Principles</b>	<b>Sources</b>
1.	Khilafah (Vicegerency)	Quran, al-Baqarah (2): 30-39, Quran, al-Hadid (57): 25, Hud (11): 61
2.	Amanah (transparency)	Quran, al-Nisa'(4): 1), Quran, Luqman (31): 12-19), Quran, al-Isra' (17):23, Quran, al-An'am (6): 151, Quran, al-Nisa' (4): 36), (Quran, al- Nisa' (4): 34). etc
3.	Taklif (Responsibility) and Ihtisab (Accountability)	(Al- Baqarah (2): 229-232, al- Nisa'(4): 19, al-Nisa' (4): 34.

The detailed discussion of those principles of family governance is as follows:

### **Khilafah (Vicegerency)**

The first and foremost contribution that Islam made in governing the family is the introduction of the concept of khilafah which is considered as the most important element in marriage governance. This concept of khilafah defines the true position of man as the servant and vicegerent in the universe (Quran, al-Baqarah (2): 30-39), to establish justice and peace on earth (Quran, al-Hadid (57): 25, Hud (11): 61. In the context of family, every member of the family

should endeavour to perform vicegerency of Allah in their family life. Thus, marriage should contribute to creating an environment conducive to achieving these missions.

The question is what are the characteristics of khilafah in the family? In this regard, the story of Moses is a good example to illustrate the qualities of khilafah that one needs to be a husband (Quran, al-Qasas (28): 27). According to Ibn Kathir (1999), in that verse, Moses was described as strong as he helped daughters of Syuaib in watering animal by lifting a big rock which can only be moved by ten people. As his trustworthiness, Syuaib asked his daughter how she could be sure of his trustworthiness in such a short time. She replied: "When I bade him to follow me to our home, he insisted that I walk behind him so he would not observe my form as to avoid sexual attractions" (Kathir, 1999).

In that verse, the two qualities that Moses (AS) had are strength and trustworthiness (qawiyun Amin) in which these two qualities are very important for husbands and are signs of leadership. Because of these two qualities, Moses (AS) was offered by Prophet Shu'ayb (AS) to marry one of his daughters on the condition that he must work with him as a shepherd for eight years, however, if he can work for ten 10 years, it is preferable (Quran, al-Qasas (28): 22-28).

It is suggested that Prophet Shu'ayb placed such a condition to ensure that Moses (AS) was well-prepared to be a husband and leader of the family. This shows that the duty of a husband as the main khilafah in a family is not an easy task, and it needs preparation by having proper training. The ten-year service is good enough to build his strength and develop his quality as a husband, as he could learn from all the hardship and challenges.

Other characteristic of khilafah in family is the quality of leadership. As rightly pointed out that a thrust successful organisation starts with a quality leader who has vision and a mission to lead the organisation realises its goal and objectives (Mehmet, 2018; Nik Mustapha 1998), the same could be applied in the family institution as it requires a quality husband to lead the family to achieve the intended goal. In this regard, the husband should be fully conscious of his responsibilities and should discharge his duties honestly and diligently. He should also treat his subordinate with tenderness, affection and fairness so that he will get full cooperation from them (Quran, al-Nisa (4): 19). Being the leader in the family, Islam has entrusted man as protector (Quran, al-Nisa'(4): 34) and the most important duty of a leader is to look after the family members and guide them to the right path (Quran, al-Tahrim (66): 6).

As the main khilafah in the family, the husband should also take the responsibility of supporting and providing for his wife as it is necessary for the well-being of the family. This duty of the husband is important as it helps the woman as a mother to dedicate herself and raise her children properly. It is to be noted that Islam emphasizes the quality of leadership. The leader should be the one who excels others in piety and fear of Allah. Therefore, God-fearing men and those who have good leadership qualities should be given priority when selecting husbands.

Thus, governance in family requires good quality spouses who really understand their roles as khilafah. For this, one should look for the right qualities in a marriage partner. This is supported by the Prophet (SAW) as stated in his traditions (ḥadith) in which he asked the Muslim woman to accept a man who is asking her in marriage, if the man is good in religion and character (Al Baihaqi, 1994).

## Amanah (Transparency)

The second principle of family governance is *amanah* (transparency). The concept of *amanah* is important since it determines the individual's relationship with the family, society, state and humanity at large. In other words, this concept resolves the issues pertaining to the rights and responsibilities of an individual in every aspect of life (Ibrahim, 2008).

Extending this concept in the context of family governance, each governance actors in the family has trust and responsibility to be fulfilled. For example, legally married man and woman are entrusted with the *amanah* of raising their children by providing maintenance, care, education and good treatment (Zaleha, 2010). Islam enjoins parents to observe their responsibilities towards their children from the very beginning of their inception (Quran, al-Nisa'(4): 1).

The verse emphasised that parents should be concerned about their child from the very beginning of their inception. In Islam the proper development of the child begins from the mother's womb. The mother should abstain from liquor, drugs, non-halal food, and avoid tension, as it will adversely affect mental and physical health of the prospective mother and child (Zeenath, 2001). Other *amanah* that parents should fulfil is providing proper education that focuses more on the children's moral and spiritual development. It is suggested that the best way to secure the children is by providing proper or adequate education and develop their moral and characters. A good example of educational method stated in the Quran is the one used by Luqman al-Hakim (A.S.) in educating his son. The surah conveys wonderful methods of raising children according to Allah's decree. It is found that Luqman al-Hakim used the advice and emphasised three important aspects, namely faith, worship and manners (Quran, Luqman (31): 12-19).

In return for such an obligation and duties of the parents, children also have duties that should be fulfilled, for example, it is an obligation for children to be good to their parents, obey them and to treat them in the best way. Good conduct towards parents is regarded as a key to paradise (Majah, 2007). There are several *Quranic* verses and Prophet (SAW) traditions which show that both parents and children have *amanah* to be fulfilled. They are bound together by mutual obligations and commitments. While parents merit consideration, love compassion and mercy, children deserve maintenance, care, love and education (Quran, al-Isra' (17):23; al-An'am (6): 151, al-Nisa' (4): 36).

Other than parents and children, the husband and wife are also the trustees of Allah on earth. Both have individual and mutual rights. The rights of the husband arising from the marriage contract is the right to obedience. It means that a wife has to obey her husband in all respects, except in what is forbidden by Allah (Quran, al-Nisa' (4): 34). The wife should also protect her honour or chastity especially in the absence of her husband (Al-Nisa' (4): 34). Other than that, the husband has the right of authority and guidance. It means that Allah has given the husband the right to guide his wife and supervise her, so that family affairs may be stable (Al-Nisa' (4): 34).

On the other hand, the wife is entitled to two types of rights, financial and non-financial. Financial rights consist of food, clothing, medical expenses and accommodation (Quran, al-Nisa' (4): 5). The non-financial rights of the wife are that the husband must not cause her harm and must ensure her fair treatment. The husband should also treat his wife kindly (Quran, al-Nisa' (4): 10).

Thus, in Islamic family governance, the family affairs, duties and responsibilities have been arranged and divided between all the governance actors, including the husband and wife, the children and even the State or the legislator. It is important to understand that failure in performing such duties would result in the suffering of the members of family itself, financially and emotionally and destruction of the marriage institution. As trustworthiness is one of the highly regarded virtues in Islam, every governance actor in the family institution is required to perform their duties diligently and subscribe to ethical and moral practices.

### **Taklif (Responsibility) and Ihtisab (Accountability)**

The principles of responsibility (*taklif*) and accountability (*ihtisab*) are important for the establishment of good family governance. Man has to be mindful of every deed he does, so that he would hold himself accountable. In the context of family, everybody in the family has rights and duties of each other. They should acknowledge these rights and discharged their duties (Al-Baqarah (2): 229-232, al-Nisa'(4): 19, al-Nisa' (4): 34. This has been related by al-Bukhari and Muslim that the Prophet (SAW) said to the effect: "Each one of you is a guardian, and each one of you will be asked about his subjects, a leader is a guardian over the people and he will be asked about his subjects, a man is a guardian over the member of his household and he will be asked about his subjects, a woman is a guardian over the members of the household of the husband and his children...Behold! Each one of you is a guardian, and each one of you will be asked about his subjects." (Bukhari, 1995).

It is important for every member in the family to have a clear understanding of the great responsibility that rests on their shoulders. This would make them work hard and cooperate in order to fulfil their mission in establishing the family unit. In order to achieve effective and efficient family governance, it is the responsibility of the husband/father as the leader of the family to lead and guide the family and ensure that everybody is performing their duties.

However, the most important responsibility in governing the family should be shouldered by the State and its agencies. In this context, the State should adopt legislative, administrative and other measures to ensure adequate protection of the family. This was affirmed by article 16(3) of the Universal Declaration of Human Rights 1948 (UHDR) and The International Covenant on Civil and Political Rights 1966 (ICCPR), in which the declarations conferred the duty to society and the State to protect the family.

In the context of marriage, since it is the basis of making a family, considerable attention should be given first. Article 5(b), Cairo Declaration of Human Rights in Islam (CDHRI) 1990 provides that the State and the society in general should remove all obstacles to marriage and provide the widest possible assistance to facilitate it. The State should also take all positive steps, including the enactment and enforcement of laws for ensuring the proper function of the marriage institution with a view to preserve its stability.

This regulation of marriage has some significance in controlling the marriage so that everybody adheres to the rules and this will make its application and enforcement more effective. It is rightly pointed out by Ibn Ashur, (2001) that such regulation is for achieving benefit and protection from harm and corruption. He opined that the fundamental ideas behind legislation on family system are to strengthen the marriage bond, prop up of blood kinship and detail out procedures for possible dissolution of those relationship (Sayed, 2008). Hence, it is a duty of the

State to legislate and codify the Islamic family law, as it is one of the most effective ways of administrating Islamic law in modern times (Sayed, 2009).

Although it has been seen as interference to the individuals' rights and family privacy, for the sake of marriage stability, laws and legislations are important tools for preventing destruction to the family. Moreover, people are made aware of their rights and duties and the resolution of disputes by judges is facilitated as their efforts are unified with regard to the interpretation and application of general legal provision.

## CONCLUSION

In conclusion, the exploratory study of this topic has provided an extensive picture on the principles of family governance. Islam as a way of life that advocates a complete code of human conduct contains a number of basic principles which are applicable to the conduct of human affairs. This moral code of behaviour, which is divine and comprehensive in nature, is undeniably important in contributing towards good governance. Islamic values such as amanah, ikhlas, adalah, şidq, accountability, competence and integrity are all embedded in good governance. For this research, however, the discussion focuses on three principles essentially associated with the concept of good governance from an Islamic perspective, namely, the concept of khilafah, amanah taklif and ihtisab. Since the family institution is crucial for the growth and continuity of human civilisation, this principle of family governance should be adopted and strengthen as it leads to the stability of family.

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